

McElwain, Elizabeth

From: Hensle, Kristine (ASRC)
Sent: Wednesday, November 29, 2006 9:17 AM
To: McElwain, Elizabeth
Subject: Litigation Search for USP 5894079.

Good morning Examiner McElwain,

I did found litigation for U.S. Patent No. 5894079.

My steps:

- 1) I performed a search on the patent in Lexis CourtLink for any open and closed dockets or closed cases; two found.
- 2) I performed a search in Lexis in the Federal Courts and Administrative Materials databases for any cases; three found; fulltext included. (2 were the dockets found in Courtlink.)
- 3) I performed a search in Lexis in the IP Journal and Periodicals database for any articles on the patent; none found.
- 4) I performed a search in Lexis in the news databases for any articles about the patent or any articles about litigation on this patent; nine found; 8 relevant. Their summaries are included in the search results.
- 5) I performed a search in Questel-Orbit's PLUSPAT file.
- 6) An electronic copy of your litigation search has been sent to SCORE and will be available as early as tomorrow.

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If I can assist you further, please do not hesitate to contact me.

Best regards,
Kristine Hensle
Librarian
ASRC - Contractor for STIC
Biotechnology Chemical Library - A179
USPTO
571-272-4161 - AM and voicemail
571-272-2520 (Biotechnology/ Chemical Library) - PM
Fax: 571-273-0225

11/28/06

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[Patent class/subclass definitions](#)

Cases filed between these dates (optional):

From: To:

MM/DD/YYYY MM/DD/YYYY

Note: some patent cases from as early as the 1980s have links to patent numbers. However, comprehensive data begins on 1/1/2002.

Client Matter Codes: [\[info\]](#) Previous Codes: [\[info\]](#)

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Search > Patent Search > Litigation involving patent 5894079

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Patent Search Results

Results: 2 cases and their patents, totaling 2 items.

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Patent	Class	Subclass	Description	Court	Docket Number	Filed	Date Retrieved
<input type="checkbox"/> 5,894,079	800	260	Pod-Ners, LLC v. McCarty et al	US-DIS-COD	1:05cv1866	9/26/2005	12/6/2005
<input type="checkbox"/> 5,894,079	800	260	Pod-Ners LLC v. Tutuli Produce Corp, et al	US-DIS-CACD	2:99cv10172	10/5/1999	11/5/2004

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2 cases were found; updated dockets attached below.

US District Court Civil Docket

U.S. District - California Central
(Western Division)

2:99cv10172

Pod-Ners Llc v. Tutuli Produce Corp, et al

This case was retrieved from the court on Tuesday, November 28, 2006

Date Filed:	10/05/1999	Class Code:	(Mcx), CLOSED
Assigned To:	Judge Consuelo B Marshall	Closed:	Yes
Referred To:	Magistrate Judge James W McMahon	Statute:	35:271
Nature of suit:	Patent (830)	Jury Demand:	Plaintiff
Cause:	Patent Infringement	Demand Amount:	\$0
Lead Docket:	None	NOS Description:	Patent
Other Docket:	None		
Jurisdiction:	Federal Question		

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Date	#	Proceeding Text
10/05/1999	1	COMPLAINT filed Summons(es) Issued referred to Discovery James W. McMahon (bg) (Entered: 10/07/1999)
10/05/1999	--	NOTICE Pro Hac Vice application mailed to attorney Lisa V Mueller (bg) (Entered: 10/07/1999)
10/07/1999	2	ORDER by Judge Consuelo B. Marshall re Crt expects strict compliance w/the L/R's & FRCP (jp) (Entered: 10/07/1999)
10/19/1999	3	RETURN OF SUMMONS and proof of service of S/C executed upon defendant Rebecca Gilliland on 10/13/99 personally. (twdb) (Entered: 10/20/1999)
10/19/1999	--	LODGED/PROPOSED appl of non resident atty to appear in specific case & ORDER submitted by plaintiff Pod-Ners LLC .(FWD TO CRD) (twdb) (Entered: 10/20/1999)
10/19/1999	--	FINANCIAL ENTRY re [0-1] pro hac vice fee paid submitted by attorney Lisa V. Mueller (jp) (Entered: 04/04/2000)
11/03/1999	4	STIPULATION filed to extend time to answer complaint [1-1] have up to & incl 12/2/99 as to defendants Tutuli Produce Corp, Rebecca Gilliland (jp) (Entered: 11/05/1999)
11/04/1999	6	NOTICE by plaintiff Pod-Ners LLC to cnsl (jag) (Entered: 11/09/1999)
11/05/1999	5	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for plaintiff Pod-Ners LLC by Lisa V Mueller. Designating Peter W James as local counsel. Approved by Judge Consuelo B. Marshall . (Fee pd) (jp) (Entered: 11/08/1999)
12/02/1999	7	ANSWER filed by defendant Tutuli Produce Corp, defendant Rebecca Gilliland to complaint [1-1] (bg) (Entered: 12/06/1999)
12/02/1999	7	COUNTERCLAIM by defendant Tutuli Produce Corp against plaintiff Pod-Ners LLC (bg) (Entered: 12/06/1999)
12/02/1999	8	NOTICE by defendant Tutuli Produce Corp, counter-claimant Tutuli Produce Corp, defendant Rebecca Gilliland of interested parties (bg) (Entered: 12/06/1999)
12/02/1999	--	NOTICE Pro hac vice application mailed to attorney E Anthony Figg, Robert J Jondle (bg) (Entered: 12/06/1999)

12/09/1999	9	NOTICE TO COUNSEL RE Copyright, Patent and Trademark Reporting Requirements filed (jp) (Entered: 12/10/1999)
12/20/1999	--	REPORT ON THE FILING OF AN ACTION REGARDING Patent or Trademark (cc: form mailed to Washington, D.C.)(Opening) (bp) (Entered: 12/21/1999)
12/21/1999	10	ANSWER TO COUNTERCLAIM [7-1] by counter-defendant Pod-Ners LLC (bp) (Entered: 12/22/1999)
12/29/1999	11	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for defendant Tutuli Produce Corp by Robert J Jondle. Designating Jill M Pietrini as local counsel. Approved by Judge Consuelo B. Marshall . (Fee pd) (bg) (Entered: 01/03/2000)
01/06/2000	13	JOINT REPORT OF EARLY MEETING OF COUNSEL filed. Estimated length of trial 2 1/2 weeks (rrey) (Entered: 01/10/2000)
01/07/2000	12	MINUTES: On the crt's own mot, this case is set for a status hearing set on 9:30 3/30/00 cnsl are to fl a jt stat rpt on or bef 3/13/00 by Judge Consuelo B. Marshall CR: N/A (bp) (Entered: 01/07/2000)
02/28/2000	14	STIPULATION and ORDER by Judge Consuelo B. Marshall for protective order (see doc for fur detail) (jp) (Entered: 02/29/2000)
03/01/2000	--	LODGED/PROPOSED appl of non resident atty to appear in specific case & ORDER submitted by defendant Tutuli Produce Corp, defendant Rebecca Gilliland .(FWD TO CRD) (twdb) (Entered: 03/02/2000)
03/09/2000	15	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for defendant Tutuli Produce Corp, defendant Rebecca Gilliland by E Anthony Figg. Designating Jill M Pietrini as local counsel. Approved by Judge Consuelo B. Marshall (Fee pd) (jp) (Entered: 03/10/2000)
03/13/2000	16	JOINT STATUS REPORT (bg) (Entered: 03/15/2000)
03/20/2000	17	APPLICATION by plaintiff Pod-Ners LLC to reset status conference (jp) (Entered: 03/21/2000)
03/30/2000	18	ORDER CONTINUING STATUS CONF by Judge Consuelo B. Marshall status conference is continued to 4/26/00 @ 9:30 a.m. (jp) (Entered: 04/03/2000)
04/25/2000	19	MINUTES before Judge Consuelo B. Marshall: Status conf is continued to 5/2/00 @ 10:00 CR: N/A (scan) (jp) (Entered: 04/25/2000)
04/26/2000	21	NOTICE OF DISCREPANCY AND ORDER by Judge Consuelo B. Marshall; IT IS HEREBY ORD the Application for Dismissal & Order is NOT to be fld, but instead REJECTED, & is ORD rtn to cnsl (Dismissal must shall be purs to ntc mot or stip) (jp) (Entered: 05/02/2000)
04/27/2000	20	MINUTES before Judge Consuelo B. Marshall: status conference is continued to 5/4/00 @ 9:30 CR: N/A (scan) (jp) (Entered: 04/27/2000)
05/02/2000	22	MINUTES by Judge Consuelo B. Marshall: status conference will be heard @ 1:30 on 5/4/00 CR: N/A (scan) (jp) (Entered: 05/03/2000)
05/04/2000	23	MINUTES: ; Conf held; discovery ddl set on 11/30/00; mots shall be ntc for hrg on or before 12/11/00; pretrial conference set on 2:30 1/29/01; 4 day jury trial set on 10:00 3/6/01 ; defense cnsl shall ldg a propsd ord reflectng the Crt's oral ord on or before 5/8/00 by Judge Consuelo B. Marshall CR: Carmen Reyes (ir) (Entered: 05/08/2000)
05/09/2000	24	ORDER re status conference by Judge Consuelo B. Marshal. Discov shall be cmpltld by 11/30/00; last day to hear motions shall be 12/11/00 & all motion shall be set for 10:00 am; ptc shall be held on 1/29/01 @ 2:30 pm; This case shall be tried by Jury on 3/6/01 @ 10:00 am. The crt has allowed 4 days for the trial (bg) (Entered: 05/10/2000)
08/03/2000	25	NOTICE OF MOTION AND MOTION by plaintiff Pod-Ners LLC for leave to withdraw atty , for a limited stay of proceedings ; motion hearing set for 10:00 9/11/00 Lodged prop ord (bg) (Entered: 08/03/2000)

08/04/2000 26 STIPULATION and ORDER by Judge Consuelo B. Marshall that the ddl for (1) filing & srv any motions/stip to dismiss to cmp or the cntclm, (2) filing & srv any mots or stip to amd the cmp or cntclm, & (3) resolving any discov disputes re dfts 1st set of written discov reqs may be cont to 10/5/00 (jp) (Entered: 08/07/2000)

08/21/2000 27 NOTICE OF MOTION AND MOTION by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp for leave to file amended answer & counterclaims ; motion hearing set for 10:00 9/11/00; Lodged order & amd answer (jp) (Entered: 08/22/2000)

08/21/2000 28 MEMORANDUM OF POINTS & AUTH by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp in suppt of motion for leave to file amended answer & counterclaims [27-1] (jp) (Entered: 08/22/2000)

08/21/2000 29 DECLARATION of JILL M. PIETRINI by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp in suppt of motion for leave to file amended answer & counterclaims [27-1] (jp) (Entered: 08/22/2000)

08/24/2000 30 OPPOSITION by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-defendant Pod-Ners LLC to motion for leave to withdraw atty [25-1], and for a limited stay of proceedings [25-2] (jp) (Entered: 08/25/2000)

08/24/2000 31 MINUTES before Judge Consuelo B. Marshall: The Crt STRIKES the fol mots for failure to comply w/Local Rule 7.4.1.: (1) Plf's mot for lv to w/draw atty [25-1], for a limited stay of procs [25-2], and (2) Defendants mot for lv to file amd ans & cntclms [27-1]; Cnsl may re-ntc the mot(s) after a valid meet & confer in accordance w/the time provisions of the Rule. Cnsl for non-movants are advised that the Crt will issue an OSC RE Sancs, if it appears that cnsl for non-movants have failed to resp to good faith attempts by the movants to meet & confer CR: N/P (cc: Ptys) (SEND) (jp) (Entered: 08/28/2000)

09/01/2000 32 NOTICE OF MOTION AND MOTION by defendants Tutuli Prod Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp for leave to file amended answer & counterclaims ; motion hearing set for 10:00 9/25/00; Lodged prospd 1st amd ans; Prospd ord (jp) (Entered: 09/05/2000)

09/01/2000 33 MEMORANDUM OF POINTS & AUTH by defendants Tutuli Produce Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp of motion for leave to file amended answer & counterclaims [32-1] (jp) (Entered: 09/05/2000)

09/01/2000 34 DECLARATION of JILL M. PIETRINI by defendants Tutuli Prod Corp, Rebecca Gilliland, counter-claimant Tutuli Produce Corp in suppt of motion for leave to file amended answer & counterclaims [32-1] (jp) (Entered: 09/05/2000)

09/01/2000 35 AMENDED NOTICE OF MOTION AND MOTION by plaintiff Pod-Ners LLC for leave to withdraw , and to limited stay of proceedings stmt purs to L/R 7.4.1; Decl of Lisa V. Mueller; motion hearing set for 9/25/00; Lodged prospd order (jp) (Entered: 09/05/2000)

09/07/2000 36 MINUTES before Judge Consuelo B. Marshall: the following motions are SUBMITTED w/out oral arg: Motion for leave to withdraw [35-1], and a limited stay of proceedings [35-2], dfts motion for leave to file amended answer & counterclaims [32-1] CR: N/A (SEND) (jp) (Entered: 09/07/2000)

09/11/2000 37 STATEMENT OF NON-OPPOSITION by defendants, counter-claimant Rebecca Gilliland, Tutuli Produce Corp to amended motion for leave to withdraw [35-1], and a limited stay of proceedings [35-2] & request for cont of pretrial dates (jp) (Entered: 09/11/2000)

09/11/2000 37 *****REQUEST by defendants, counter-claimant Intuli Produce Corp, Rebecca Gilliland for continuance of pretrial dates (jp) (Entered: 09/11/2000)

11/08/2000 38 FIRST AMENDED ANSWER [7-1] by defendants Tutuli Produce Corp, Rebecca Gilliland (jp) (Entered: 11/08/2000)

11/08/2000 38 *****AMENDED COUNTERCLAIM [7-1] by counter-claimant Tutuli Produce Corp; summons not issued (jp) (Entered: 11/08/2000)

11/08/2000 39 ORDER by Judge Consuelo B. Marshall that those firms are hereby permitted to withdraw counsels Lisa V Mueller, Peter W James for Pod-Ners LLC [35-1], effective upon the entry of

this Ord. This actn is hereby stayed [35-2] until 12/8/00, to permit Pod-Ners LLC to obtain new cnsl, present cnsl to give ntc as required by L/R 2.8.2.3, & advise P of L/R 2.9.1 (send) (jp) (Entered: 11/09/2000)

11/08/2000 40 ORDER by Judge Consuelo B. Marshall that dfts motion for leave to file amended answer & counterclaims [32-1] is GRANTED; IT IS FUR ORD that the 1st amd ans of dfts & Amd cntclm is deemed fld as of 11/8/00; & IT IS FUR ORD that plf shall have until 12/18/00 in which to file a resp to the 1st amd ans of dfts Tutuli Prod Corp & Rebecca Gilliland (send) (jp) (Entered: 11/09/2000)

12/06/2000 41 APPEARANCE for plaintiff, counter-defendant Pod-Ners LLC by attorney Cynthia Alison Lock (jp) (Entered: 12/08/2000)

12/18/2000 42 REPLY TO AMENDED COUNTERCLAIM [38-1] by counter-defendant Pod-Ners LLC (bg) (Entered: 12/19/2000)

01/22/2001 43 MINUTES: Status Conference On Crt's own Mot, pretrial conference is cont to 11:00 1/31/01 by Judge Consuelo B. Marshall CR: n/a (SEND) (ir) (Entered: 01/23/2001)

01/22/2001 -- LODGED APPL OF NON-RESIDENT to appear in a specific case submitted by plaintiff/ counter-defendant Pod-Ners LLC (FWD TO CRD) (ir) (Entered: 01/24/2001)

01/22/2001 -- LODGED APPLICATION OF NON-RESIDENT ATTY/PROPOSED ORDER submitted by plaintiff Pod-Ners LLC (phv atty David J Lee) (FWD TO CRD) (mch) (Entered: 01/24/2001)

01/22/2001 -- LODGED APPLICATION OF NON-RESIDENT ATTY/PROPOSED ORDER submitted by plaintiff Pod-Ners LLC (FWD TO CRD) (mch) (Entered: 01/24/2001)

01/24/2001 44 APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for plaintiff/ counter-defendant Pod-Ners LLC by Daniel N Fishman. Designating Cynthia A Lock as local counsel. Approved by Judge Consuelo B. Marshall. (Fee pd) (ir) (Entered: 01/25/2001)

01/24/2001 45 APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case filed for plaintiff/counter-defendant Pod-Ners LLC by David J Lee. Designating Cynthia A Lock as local counsel. Approved by Judge Consuelo B. Marshall (Fee pd) (ir) (Entered: 01/25/2001)

01/25/2001 46 STIPULATION and ORDER by Judge Consuelo B. Marshall ; discovery cut-off cont to 1/25/02; pretrial conference cont to 3:00 4/23/02; jury trial cont to 10:00 5/29/02 ; Mot hrg cut-off date 2/11/02 (SEND) (ir) (Entered: 01/26/2001)

06/28/2001 47 NOTICE OF MOTION AND MOTION by plaintiff Pod-Ners LLC to stay pending Resolution of US Supreme Crt & US Patent Office proceedings ; motion hearing set for 10:00 8/13/01; Lodged Propds Ord (ir) (Entered: 06/28/2001)

07/09/2001 -- PLACED IN FILE - NOT USED; Stip req to cont hrg on Plf's mot to stay; [Propds] Ord thereon; ldg 7/6/01 by Dfts & Cntclms (ir) (Entered: 07/10/2001)

07/09/2001 48 MINUTES: Plf's mot to stay; Stip to cont hrg on Plf's mot to stay is denied; Opp to mot to stay shall be fld on or before 7/23/01, replies if any shall be fld on or before 7/30/01. Plf's motion to stay pending Resolution of US Supreme Crt & US Patent Office proceedings [47-1] shall stand SUBMITTED as of 7/30/01 by Judge Consuelo B. Marshall CR: n/a (SEND) (ir) (Entered: 07/10/2001)

07/23/2001 -- Text not available. (Entered: 07/24/2001)

07/23/2001 49 OPPOSITION by dfts Tutuli Produce Corp, Rebecca Gilliland to motion to stay pending Resolution of US Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 07/24/2001)

07/23/2001 50 DECLARATION of Jill Pietrini in opp by Tutuli Produce Corp, Rebecca Gilliland re motion to stay pending Resolution of Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 07/24/2001)

07/23/2001 51 DECLARATION of Rebecca Gilliland in opp by Tutuli Produce Corp, Rebecca Gilliland re motion to stay pending of US Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 07/24/2001)

07/30/2001	52	REPLY BRIEF by plaintiff Pod-Ners LLC, counter-defendant Pod-Ners LLC re motion to stay pending Resolution of Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 08/01/2001)
07/30/2001	53	DECLARATION of David J Lee in suppt by plaintiff Pod-Ners LLC, counter-defendant Pod-Ners LLC re motion to stay pending Resolution of US Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 08/01/2001)
07/30/2001	54	DECLARATION of Larry M Proctor in suppt by plaintiff Pod-Ners LLC, counter-defendant Pod-Ners LLC re motion to stay pending Resolution of US Supreme Crt & US Patent Office proceedings [47-1] (el) (Entered: 08/01/2001)
08/17/2001	55	ORDER by Judge Consuelo B. Marshall granting plf's motion to stay pending Resolution of US Supreme Crt & US Patent proceedings [47-1] terminating case (MD JS-6) (ENT 8/20/01) Send/Ntc (el) (Entered: 08/20/2001)
11/06/2001	--	REPORT ON THE DETERMINATION OF AN ACTION REGARDING patents (cc: form mailed to Washington, D.C.)(Closing) (twdb) (Entered: 11/06/2001)
09/29/2004	56	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case by Mark Lee Hogge for Tutuli Produce Corp Inc; Rebecca Gilliland and Tutuli Produce Corp Inc, designating Andrew Eliseev as local counsel. Fee paid. Approved by Judge Consuelo B. Marshall.(lc,) (Entered: 09/30/2004)
09/29/2004	57	APPLICATION AND ORDER of Non-Resident Attorney to Appear in a Specific Case by Kathryn L Clune for Tutuli Produce Corp Inc; Rebecca Gilliland and Tutuli Produce Corp Inc, designating Andrew Eliseev as local counsel. Fee paid. Approved by Judge Consuelo B. Marshall.(lc,) (Entered: 09/30/2004)
09/29/2004	--	FAX number for Attorney Kathryn L Clune, Mark Lee Hogge is 202-331-3101. (lc,) (Entered: 09/30/2004)
09/29/2004	--	FAX number for Attorney Andrew Eliseev is 310-586-7800. (lc,) (Entered: 09/30/2004)
11/10/2004	62	DECLARATION of Kathryn L Clune filed by Defendant Tutuli Produce Corp Inc. (yc,) (Entered: 11/19/2004)
11/10/2004	63	DECLARATION of Andrew Eliseev filed by Defendants Rebecca Gilliland, Tutuli Produce Corp Inc. (yc,) (Entered: 11/19/2004)
11/16/2004	58	Substitution of Attorney filed attorney Andrew Eliseev of Greenberg Traurig in place and stead of attorney E Anthony Figg by Judge Consuelo B. Marshall. (yc,) (Entered: 11/18/2004)
11/16/2004	59	Substitution of Attorney filed. Andrew Eliseev of Greenberg Traurig in place and stead of attorney Jill M Pietrini by Judge Consuelo B. Marshall. (yc,) (Entered: 11/18/2004)
11/16/2004	60	Substitution of Attorney filed by attorney Kathryn L Clune of Greenberg Traurig in place and stead of rothwell, Figg Ernst & Manbeck by Judge Consuelo B. Marshall. (yc,) (Entered: 11/18/2004)
11/16/2004	61	Substitution of Attorney filed. in place and stead of attorney Edward M Jordan by Judge Consuelo B. Marshall. (yc,) (Entered: 11/18/2004)

US District Court Civil Docket

U.S. District - Colorado
(Denver)

1:05cv1866

Pod-Ners, Llc v. Mccarty et al

This case was retrieved from the court on Tuesday, November 28, 2006

Date Filed:	09/26/2005	Class Code:	STLMT, TERMED
Assigned To:	Judge Phillip S Figa	Closed:	Yes
Referred To:	Magistrate Judge Michael E Hegarty	Statute:	35:271
Nature of suit:	Patent (830)	Jury Demand:	Plaintiff
Cause:	Patent Infringement	Demand Amount:	\$0
Lead Docket:	None	NOS Description:	Patent
Other Docket:	None		
Jurisdiction:	Federal Question		

Litigants

Pod-Ners, Llc A Colorado Limited Liability Company
Plaintiff

Dwain Mccarty an Individual
Defendant

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Defendant

Dwain Mccarty Thirdparty
Plaintiff

Red Beard Bean, Llc Thirdparty
Defendant

Dwain Mccarty an Individual
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Date	#	Proceeding Text
09/26/2005	1	COMPLAINT and demand for jury trial against all defendants (Filing fee \$ 250, Receipt Number 263108) Summons Issued, filed by Pod-Ners, LLC. (Attachments: # 1 Exhibit 1, attachments# 2 Exhibit 2, patent form# 3 Civil Cover Sheet # 4 Receipt)(bpm,) (Entered: 09/27/2005)
09/27/2005	2	MEMORANDUM RETURNING CASE for reassignment by Judge Matsch. (bpm,) (Entered: 09/28/2005)
09/28/2005	3	LETTER REASSIGNING CASE. Case reassigned to Judge Phillip S. Figa for all further

proceedings. Judge Richard P. Matsch is no longer assigned to case. (bpm,) (Entered: 09/28/2005)

10/07/2005 4 AMENDED COMPLAINT against all defendants, filed by Pod-Ners, LLC.(Lee, David) (Entered: 10/07/2005)

10/11/2005 5 LETTER re: 4 Amended Complaint attaching Exhibit 1 by Plaintiff Pod-Ners, LLC. (Attachments: # 1 Exhibit 1 to the Amended Complaint)(Lee, David) (Entered: 10/11/2005)

10/19/2005 6 SUMMONS Returned Executed by Pod-Ners, LLC. Dwain McCarty served on 10/14/2005, answer due 11/3/2005. (Lee, David) (Modified on 10/25/2005 to correct filer from defendant to plaintiff)(gms,). (Entered: 10/19/2005)

10/19/2005 7 SUMMONS Returned Executed by Pod-Ners, LLC. Mike Ahlberg served on 10/14/2005, answer due 11/3/2005. (Lee, David) (Entered: 10/19/2005)

10/25/2005 8 Docket Annotation re: 6 Summons Returned Executed. Docket entry modified to correct the filer to be the plaintiff instead of the defendant. Text only entry - no document attached. (gms,) (Entered: 10/25/2005)

10/25/2005 9 CORPORATE DISCLOSURE STATEMENT by Plaintiff Pod-Ners, LLC. (Lee, David) (Entered: 10/25/2005)

11/01/2005 10 ANSWER to Amended Complaint by Mike Ahlberg.(Dudgeon, John) (Entered: 11/01/2005)

11/14/2005 11 ANSWER to Amended Complaint, THIRD PARTY COMPLAINT against Red Beard Bean, LLC, COUNTERCLAIM against Pod-Ners, LLC by Dwain McCarty.(Wall, Keynen) (Entered: 11/14/2005)

11/18/2005 12 ORDER: Scheduling Conference set for 12/15/2005 08:15 AM in Courtroom A 602 before Judge Phillip S. Figa. Signed by Judge Phillip S. Figa on 11/18/05. (emksl,) (Entered: 11/18/2005)

12/05/2005 13 Reply to Counterclaim and ANSWER to Third Party Complaint by Pod-Ners, LLC, Red Beard Bean, LLC.(Lee, David) (Entered: 12/05/2005)

12/09/2005 14 Proposed Scheduling Order by Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Claimant Dwain McCarty, Counter Defendant Pod-Ners, LLC, ThirdParty Plaintiff Dwain McCarty, Defendants Dwain McCarty, Mike Ahlberg. (Lee, David) (Entered: 12/09/2005)

12/14/2005 15 Plaintiff Pod-Ner's Reply to Counterclaim and Red Beard Bean's ANSWER to Third Party Complaint Amended to add, COUNTERCLAIM against Dwain McCarty by Pod-Ners, LLC, Red Beard Bean, LLC.(Lee, David) (Entered: 12/14/2005)

12/15/2005 16 Minute Entry-Courtroom Minutes for proceedings held before Judge Phillip S. Figa : Scheduling Conference held on 12/15/2005. Discovery due by 5/19/2006. Dispositive Motions due by 6/9/2006. Final Pretrial Conference set for 7/25/2006 at 09:00 AM before Judge Phillip S. Figa. ORDER: Case referred to Magistrate O. Edward Schlatter for the purpose of conducting Settlement Conferences.(Court Reporter Darlene Martinez) (psfcd) (Entered: 12/15/2005)

12/15/2005 17 MINUTE ORDER: Settlement Conference set for 3/16/2006 01:30 PM before Magistrate Judge O. Edward Schlatter, by Magistrate Judge O. Edward Schlatter on 12/15/05. (emksl,) (Entered: 12/15/2005)

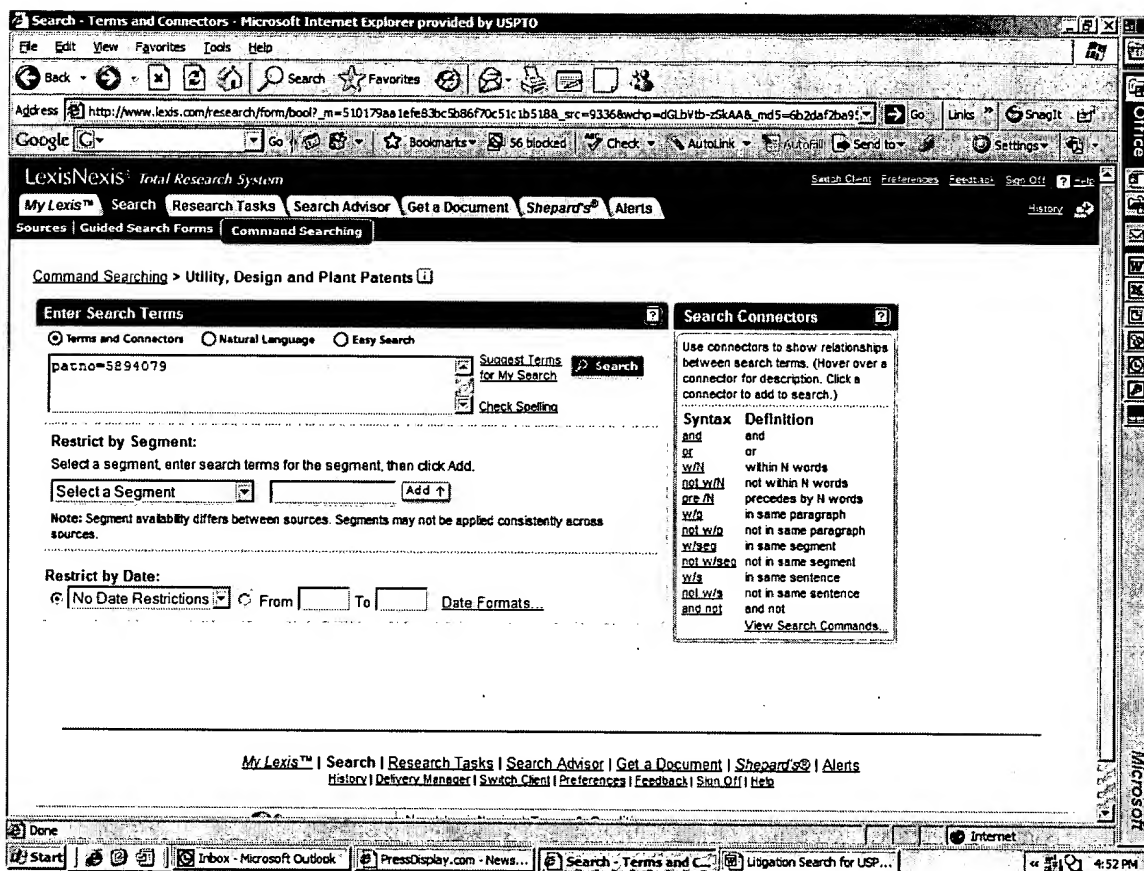
12/15/2005 18 ORDER REFERRING CASE (Settlement Purposes Only) to Magistrate Judge O. Edward Schlatter by Judge Figa. (emksl,) (Entered: 12/16/2005)

12/22/2005 19 Proposed Scheduling Order AMENDED by Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Claimants Dwain McCarty, Red Beard Bean, LLC, Counter Defendants Pod-Ners, LLC, Dwain McCarty, ThirdParty Plaintiff Dwain McCarty, Defendants Dwain McCarty, Mike Ahlberg. (Lee, David) (Entered: 12/22/2005)

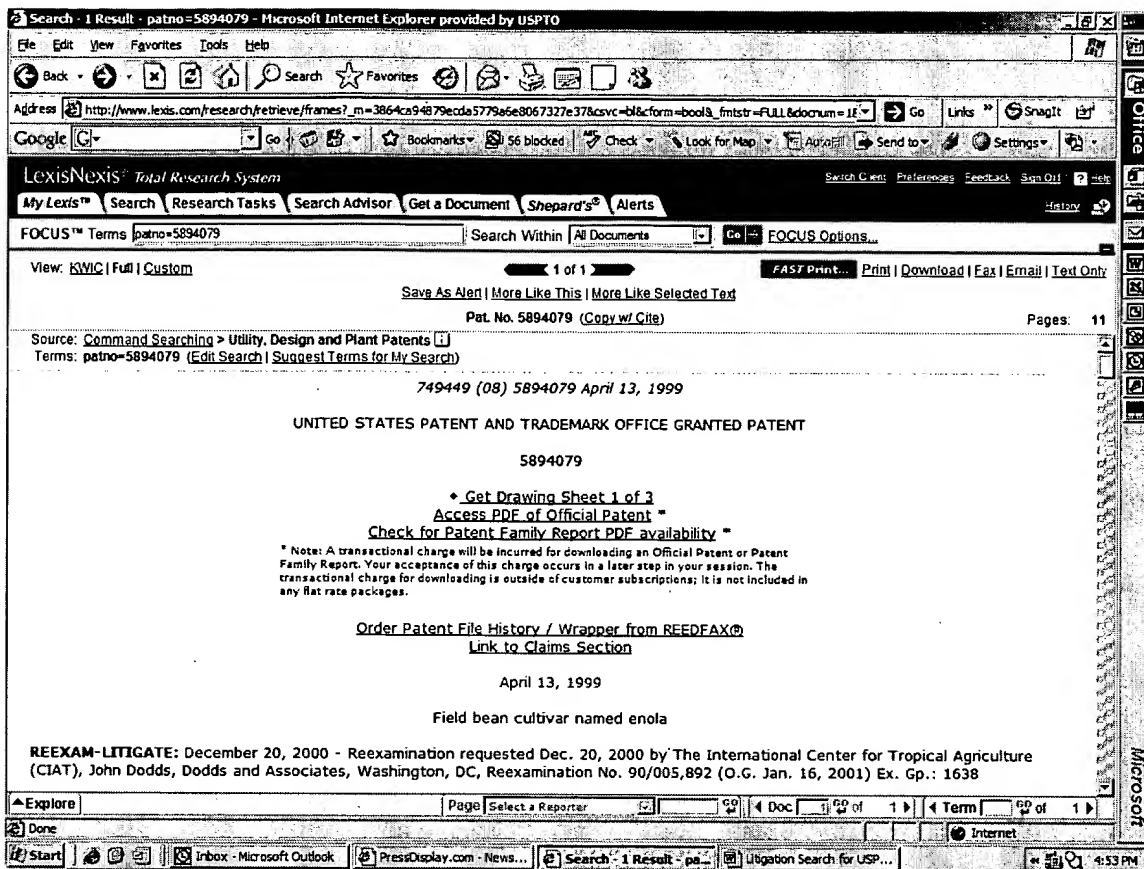
12/23/2005 20 Amended SCHEDULING ORDER: Discovery due by 5/19/2006. Dispositive Motions due by 6/9/2006. Settlement Conference set for 3/16/2006 01:30 PM before Judge Phillip S. Figa. Final Pretrial Conference set for 7/24/2006 09:00 AM before Judge Phillip S. Figa. Final Pretrial Order shall be prepared by the parties and submitted to the court no later than five days before the final pretrial conference. Signed by Judge Phillip S. Figa on 12/22/05. (emksl,) (Entered: 12/23/2005)

12/23/2005)

12/30/2005	21	Reply and ANSWER to Counterclaim by Dwain McCarty.(Wall, Keynen) (Entered: 12/30/2005)
01/31/2006	22	MOTION to Amend/Correct/Modify 10 Answer to Amended Complaint by Defendant Mike Ahlberg. (Attachments: # 1 Proposed Document Amended Answer of Mike Ahlberg and Cross Claim)(Dudgeon, John) (Entered: 01/31/2006)
02/09/2006	23	REASSIGNING MAGISTRATE JUDGE. Upon the retirement of Magistrate Judge O. Edward Schlatter, this case has been reassigned and is now referred to Michael E. Hegarty, effective February 15, 2006. All future pleadings should reference Magistrate Judge Hegarty at the end of the civil action number (such as 05-cv-00500-LTB-MEH). The dates and times for all previously scheduled matters will be maintained and will now be handled by Magistrate Judge Hegarty in Courtroom A601. His chambers are located in Room A651. His telephone number is 303-844-4507. (Text only entry - no document attached) (gms,) (Entered: 02/09/2006)
03/13/2006	24	ORDER granting Defendant Mike Ahlberg's 22 Motion to Amend Answer to Add Cross Claim, deemed filed as of today's date. Signed by Judge Phillip S. Figa on 03/13/06. (rlp,) (Entered: 03/14/2006)
03/13/2006	25	AMENDED ANSWER of Mike Ahlberg and CROSSCLAIM against Dwain McCarty by Defendant Mike Ahlberg. (rlp,) (Entered: 03/14/2006)
03/16/2006	26	Minute Entry for proceedings held before Judge Michael E. Hegarty : Settlement Conference held on 3/16/2006, settlement was reached, settlement documents due by 03/30/06, record was made. (rlp,) (Entered: 03/17/2006)
03/17/2006	27	Courtroom Minute Entry for proceedings held before Judge Michael E. Hegarty : Settlement Conference held on 3/17/2006, All further settings are VACATED, Plaintiff to provide defendant with consent Decree by 03/23/06, parties to submit Stipulated Motion for Dismissal with Prejudice by 03/31/06, (Court Reporter FTR - Cathy Coomes.) (rlp,) (Entered: 03/17/2006)
03/17/2006	28	Utility Setting Deadlines: Dismissal Paper due by 3/31/2006. Text only entry - no document attached. (rlp,) (Entered: 03/17/2006)
03/31/2006	29	STATUS REPORT by Cross Defendant Dwain McCarty, Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Claimants Dwain McCarty, Red Beard Bean, LLC, Counter Defendants Pod-Ners, LLC, Dwain McCarty, ThirdParty Plaintiff Dwain McCarty, Defendants Dwain McCarty, Mike Ahlberg, Cross Claimant Mike Ahlberg. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C# 4 Exhibit D)(Lee, David) (Entered: 03/31/2006)
04/05/2006	30	MINUTE ORDER setting Telephonic Status Conference for 4/7/2006 10:00 AM before Magistrate Judge Michael E. Hegarty, regarding the settlement conference held 03/16/06, by Judge Michael E. Hegarty on 04/05/06. (rlp,) (Entered: 04/05/2006)
04/07/2006	31	Minute Entry for proceedings held before Magistrate Judge Michael E. Hegarty: Status Conference held on 4/7/2006. Mr. Lee is directed to prepare the Consent Decree. By separate Minute Order, the Court will set a new date for settlement papers to be submitted to the Court. (Court Reporter FTR - C. Coomes.) (mehcd) (Entered: 04/07/2006)
04/07/2006	32	MINUTE ORDER Consent decree is due 4/19/06, by Judge Michael E. Hegarty on 4/7/06. (gms,) (Entered: 04/07/2006)
04/19/2006	33	STATUS REPORT (SECOND) by Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Defendant Pod-Ners, LLC, Counter Claimant Red Beard Bean, LLC. (Attachments: # 1 Exhibit A)(Lee, David) (Entered: 04/19/2006)
04/28/2006	34	STIPULATION of Dismissal of Case With Prejudice by Cross Defendant Dwain McCarty, Plaintiff Pod-Ners, LLC, ThirdParty Defendant Red Beard Bean, LLC, Counter Claimants Dwain McCarty, Red Beard Bean, LLC, Counter Defendants Pod-Ners, LLC, Dwain McCarty, ThirdParty Plaintiff Dwain McCarty, Defendants Dwain McCarty, Mike Ahlberg, Cross Claimant Mike Ahlberg. (Attachments: # 1 Exhibit A)(Lee, David) (Entered: 04/28/2006)
05/05/2006	35	REPORT on the filing or determination of an action mailed to Commissioner of Patents. (mjg,) (Entered: 05/05/2006)



Searched the Utility, Design and Plant Patents.



Lexis lists litigation at the top of its patents; Three cases listed:
NOTICE OF LITIGATION

Pod-Ners, L.L.C. v. Tutuli Produce Corporation and Rebecca Gilliland, Filed Oct. 5, 1999, D.C. C.D. California, Doc. No. 99-10172(CBM)

Order by Judge Marshall granting plf's motion to stay pending resolution of US Supreme CRT & US Patent proceedings. MD- JS-6 (Ent 8-20-01) mld ntcs. [See decided case below]

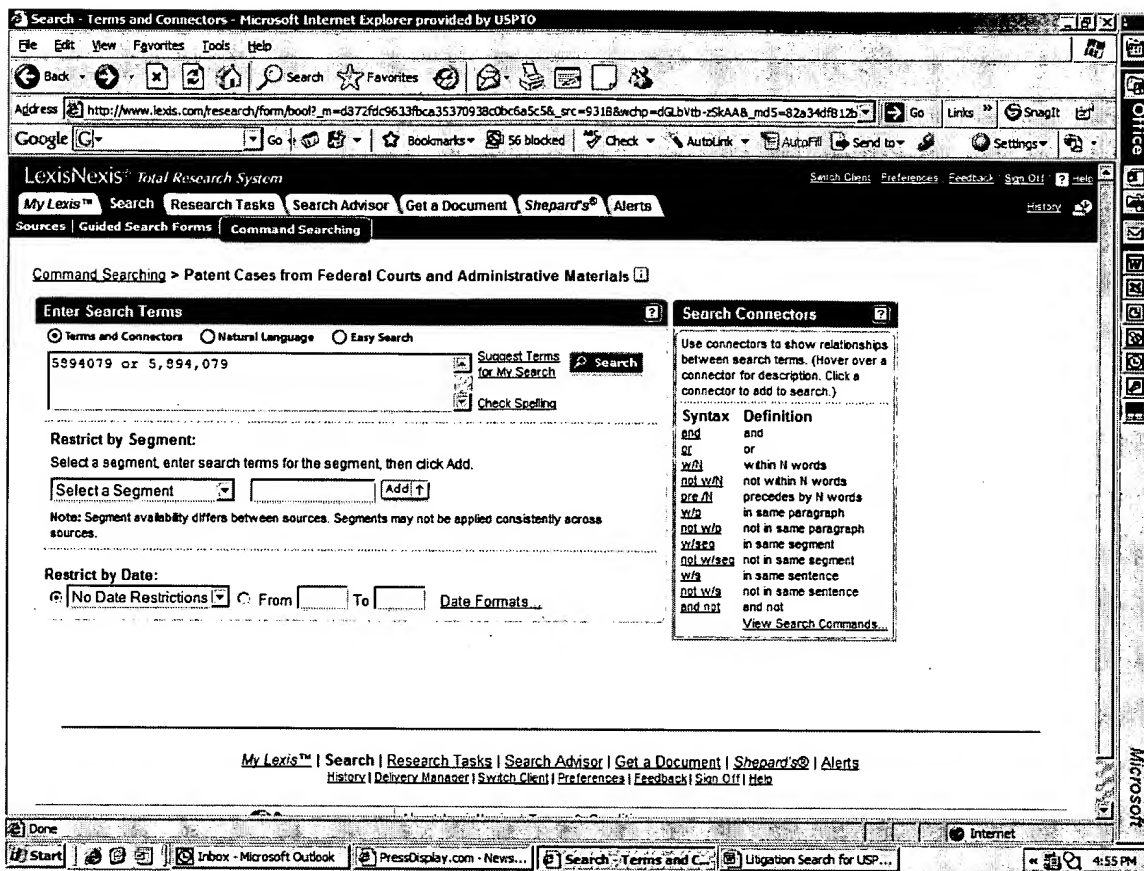
NOTICE OF LITIGATION

Pod-Ners, LLC v. McCarty et al, Filed September 26, 2005, D.C. Colorado, Doc. No. 1:05cv1866 [See dockets above]

9/28/2005

NOTICE OF LITIGATION

Pod-Ners LLC v. Tutuli Produce Corp, et al, Filed October 5, 1999, D.C. C.D. California, Doc. No. 2:99cv10172 [See dockets above]



Searched the Federal Courts and Administrative Materials.

Search - 1 Result - 5894079 or 5,894,079 - Microsoft Internet Explorer provided by USPTO

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Pod-Ners, LLC v. Tutuli Produce Corp., 2001 U.S. Dist. LEXIS 25945 (Copy w/ Cite) Pages: 5

Source: Command Searching Patent Cases from Federal Courts and Administrative Materials

Terms: 5894079 or 5,894,079 (Edit Search Suggest Terms for My Search)

2001 U.S. Dist. LEXIS 25945, "

POD-NERS, LLC, Plaintiff v. TUTULI PRODUCE CORPORATION and REBECCA GILLILAND, Defendants

No. CV 99-10172 CBM(Mcx)

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

2001 U.S. Dist. LEXIS 25945

August 17, 2001, Decided
August 17, 2001, Filed

CASE SUMMARY

PROCEDURAL POSTURE: Plaintiff patent holder sued defendants, a corporation and its president, for allegedly infringing the patent holder's patent involving a bean that had a seed coat with a unique yellow color. The corporation and its president asserted several counterclaims, including one seeking declaratory relief regarding invalidity and non-infringement of the patent. The patent holder filed a motion to stay proceedings.

OVERVIEW: The patent holder sought to stay proceedings because the action would be affected by proceedings pending in the U.S.

Explore Page Select a Reporter 62 of 1 Doc 1 of 1 Term 1 of 1

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1 decided case found; attached below.

2001 U.S. Dist. LEXIS 25945

Source: Patent Cases from Federal Courts and Administrative Materials

Search Terms: 5894079 or 5,894,079

Time of Request: Tuesday, November 28, 2006 16:57:28 EST

1 of 1 DOCUMENT

**POD-NERS, LLC, Plaintiff v. TUTULI PRODUCE CORPORATION
and REBECCA GILLILAND, Defendants**

No. CV 99-10172 CBM(Mcx)

**UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA, WESTERN DIVISION**

2001 U.S. Dist. LEXIS 25945

August 17, 2001, Decided

August 17, 2001, Filed

CASE SUMMARY:

PROCEDURAL POSTURE: Plaintiff patent holder sued defendants, a corporation and its president, for allegedly infringing the patent holder's patent involving a bean that had a seed coat with a unique yellow color. The corporation and its president asserted several counterclaims, including one seeking declaratory relief regarding invalidity and non-infringement of the patent. The patent holder filed a motion to stay proceedings.

OVERVIEW: The patent holder sought to stay proceedings because the action would be affected by proceedings pending in the U.S. Patent and Trademark Office (PTO) and in the United States Supreme Court. The Supreme Court case involved a determination of whether the Plant Variety Protection Act preempted utility patents claiming plant/seed varieties. If the Supreme Court found such preemption, it would render the patent at issue invalid. The PTO was conducting reexamination and reissue proceedings related to the patent at issue. The court concluded that the patent holder would be prejudiced if forced to participate in expensive discovery on issues that might be resolved before the Supreme Court or PTO. The court concluded that the benefits of simplifying the issues before the court outweighed any potential hardship to the corporation and its president resulting from the stay. Specifically, staying the action pending the resolution of the Supreme Court and PTO proceedings could substantially reduce the number of legal issues before the court, result in the narrowing of discovery for the parties, and minimize the need to reconsider legal issues in light of decisions by the Supreme Court and PTO.

OUTCOME: The court granted the patent holder's motion for a stay of proceedings.

LexisNexis(R) Headnotes

***Civil Procedure > Judgments > Entry of Judgments > Stays of Proceedings > General Overview
Governments > Courts > Authority to Adjudicate***

[HN1] A court has discretion to stay proceedings in an exercise of its inherent authority over the management of its docket.

Civil Procedure > Judgments > Entry of Judgments > Stays of Proceedings > General Overview

[HN2] In the context of determining whether to stay proceedings, the United States Court of Appeals for the Ninth Circuit has enumerated competing interests which must be weighed, including: possible damage resulting from the stay, hardship a party may suffer in being required to go forward, the orderly course of justice measured in terms of the simplifying or complicating of issues, and proof and questions of law which could be expected to result from a stay.

COUNSEL: [*1] For Pod-Ners LLC, Plaintiff: Cynthia A Lock, McDermott Will & Emery, Los Angeles, CA; Daniel N Fishman, David J Lee, Chrisman Bynum & Johnson, Boulder, CO; Joon M Khang, Oppenheimer Wolff & Donnelly, Los Angeles, CA; Mark P Wine, McDermott Will & Emery, Los Angeles, CA.

For Tutuli Produce Corp Inc, Rebecca Gilliland, Defendants: Andrew Eliseev, Greenberg Traurig, Santa Monica, CA; Kathryn L Clune, Mark Lee Hogge, Greenberg Traurig, Washington, DC; Mark S Lee, Manatt Phelps & Phillips, Los Angeles, CA; Robert J Jondle, Figg Ernst & Kurz, Omaha, NE.

For Tutuli Produce Corp Inc, Counter Claimant: Andrew Eliseev, Greenberg Traurig, Santa Monica, CA; Kathryn L Clune, Mark Lee Hogge, Greenberg Traurig, Washington, DC; Mark S Lee, Manatt Phelps & Phillips, Los Angeles, CA; Robert J Jondle, Figg Ernst & Kurz, Omaha, NE.

For Pod-Ners LLC, Counter Defendant: Joon M Khang, Oppenheimer Wolff & Donnelly, Los Angeles, CA; Mark P Wine, McDermott Will & Emery, Los Angeles, CA; Cynthia A Lock, McDermott Will & Emery, Los Angeles, CA; Daniel N Fishman, David J Lee, Chrisman Bynum & Johnson, Boulder, CO.

JUDGES: CONSUELO B. MARSHALL, UNITED STATES DISTRICT JUDGE.

OPINION BY: CONSUELO B. MARSHALL

OPINION: [*2]

ORDER Granting Plaintiff's Motion for Stay Pending Resolution of U.S. Supreme Court and U.S. Patent Office Proceedings

The matter before the Court, the Honorable Consuelo B. Marshall, United States District Judge presiding, is Plaintiff Pod-Ners, L.L.C.' s Motion for Stay Pending Resolution of U.S. Supreme Court and U.S. Patent Office Proceedings. The Court deemed the matter submitted without oral argument as of July 30, 2001. Upon consideration of the papers submitted, the Court grants

Plaintiff's Motion for Stay Pending Resolution of U.S. Supreme Court and U.S. Patent Office Proceedings.

JURISDICTION

This action is before the Court pursuant to 35 U.S.C. § 101 *et seq.* and 28 U.S.C. §§ 1331, 1332, 1338.

BACKGROUND & PROCEDURAL HISTORY

Plaintiff Pod-Ners, L.L.C., filed this patent infringement action against Tutuli Produce Corporation and its President, Rebecca Gilliland, on October 5, 1999. According to the Complaint, Plaintiff developed and sells a bean having a seed coat with a unique yellow color. Plaintiff's beans is protected by both (1) U.S. Letters Patent No. **5,894,079** entitled "Field Bean Cultivare Named [*3] Enola" (hereinafter "'079 Patent"), and (2) Certificate No. 9700027 issued under the *Plant Variety Protection Act* (hereinafter "PVP Certificate"). The Complaint alleges that Defendants infringed the 079 Patent by selling yellow bean seed similar to the bean seed covered by the 079 Patent. n1

n1 The Complaint does not allege, at this time, that Defendants' bean seed infringes the PVP Certificate.

Defendants filed an Amended Answer and Counterclaim on November 8, 2000. The Amended Counterclaim seeks (1) declaratory relief regarding invalidity and non-infringement of the 079 Patent, (2) trade libel, (3) intentional interference with prospective economic advantage, (4) intentional interference with contractual relations, and (5) violation of *Section 43(a) of the Lanham Act*. The gravamen of Defendants' counterclaims is that Plaintiff's attempt to enforce an invalid patent has seriously interfered with Defendants' business.

Plaintiff filed the present Motion to Stay on June 28, 2001. Defendant's Opposition was [*4] filed on July 23, 2001. Plaintiff's Reply was filed on July 30, 2001.

DISCUSSION

[HN1] The Court has discretion to stay proceedings in an exercise of its inherent authority over the management of its docket. *Landis v. North American Co.*, 299 U.S. 248, 254, 81 L. Ed. 153, 57 S. Ct. 163 (1936). [HN2] The Ninth Circuit Court of Appeals has enumerated competing interests which must be weighed, including: possible damage resulting from the stay, hardship a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof and questions of law which could be expected to result from a stay. *Filtrol Corp. v. Kelleher*, 467 F.2d 242, 244 (9th Cir. 1972), *cert. denied*, 409 U.S. 1110, 34 L. Ed. 2d 691, 93 S. Ct. 914 (1973).

Plaintiff argues that a stay is appropriate because a substantial portion of this action will be affected by proceedings pending before the U.S. Supreme Court and the U.S. Patent & Trademark Office. The Supreme Court, in *J.E.M. AG Supply, Inc. v. Pioneer Hi-Bred Int'l, Inc.*, is considering whether the Plant Variety Protection Act preempts utility patents claiming plant/seed varieties. The Supreme Court [*5] is scheduled to hear oral arguments in the *J.E.M.* action on October 3, 2001. If the Supreme Court determines that the Act preempts utility patents for plant/seed varieties, the 079

Patent will be rendered invalid. The Supreme Court's decision will help resolve the underlying legal issue in Plaintiff's infringement claim and Defendants' claims for declaratory relief. Furthermore, the Supreme Court's decision would be helpful to narrowing the legal issues in Defendants' state aw tort claims which rely, in part, on an allegation that Plaintiff has attempted to enforce an invalid patent. Amended Counterclaims PP 24, 28.

The U.S. Patent & Trademark Office ("PTO") is currently conducting reexamination and reissue proceedings relating to Plaintiff's 079 Patent. Reexamination proceedings permit the PTO to reconsider issued patents in light of new information that was unknown to the PTO at the time the patent was issued. The International Center for Tropical Agriculture ("CIAT") filed a reexamination request relating to the 079 Patent, which was granted on February 6, 2001. CIAT is challenging the validity of each of the claims in the 079 Patent, including the claims at issue in this [*6] action. Plaintiff initiated a reissue proceeding regarding the 079 Patent on January 31, 2001. Plaintiff seeks to add new and broader claims to the 079 Patent. The PTO merged the reissue and reexamination proceedings for the 079 Patent. Defendants argue that the average duration of a reexamination proceeding is approximately 18 months. (Defs.' Opp'n at 7.)

In the present action, the parties have engaged in some written discovery. However, Defendants seek to depose seventeen persons, some of whom are located in Mexico. Lee Decl. P 5, Ex. 1. Plaintiff submitted statistical evidence that discovery in patent infringement actions is costly. Lee Decl., Ex. 3. The Court finds that Plaintiffs would be prejudiced if forced to participate in expensive discovery on issues which might be resolved before the Supreme Court or PTO.

Defendants argue that they would be substantially prejudiced if this action were stayed. Defendants have been unable to sell beans since Plaintiff notified the bean industry of the 079 Patent and the PVP Certificate. (Gilliland Decl. P 9.) Furthermore, Defendants' suppliers in Mexico have begun to demand "prohibitive advanced payments" due to Plaintiff's allegation [*7] of infringement. (*Id.*) Defendants do not quantify the amount of business lost nor do they provide evidence that such loss is due to Plaintiff's alleged conduct.

Defendants also argue that the Supreme Court and PTO proceedings will not address the validity of Plaintiff's PVP Certificate, which also protects Plaintiff's bean seed. However, the Complaint does not allege that Defendants violated or infringed upon Plaintiff's rights under the PVP Certificate.

The Court finds that staying the action pending the resolution of the Supreme Court and PTO proceedings may substantially reduce the number of legal issues before the Court, result in the narrowing of discovery for the parties and minimize the need to reconsider legal issues in light of decisions by the U.S. Supreme Court and PTO. The benefits of simplifying the issues before the Court outweigh the potential hardship resulting from the stay.

CONCLUSION

Based on the foregoing, the Court **GRANTS** Plaintiff's Motion for Stay Pending Resolution of U.S. Supreme Court and U.S. PTO Proceedings.

SO ORDERED.

DATE: August 17, 2001

CONSUELO B. MARSHALL
UNITED STATES DISTRICT JUDGE

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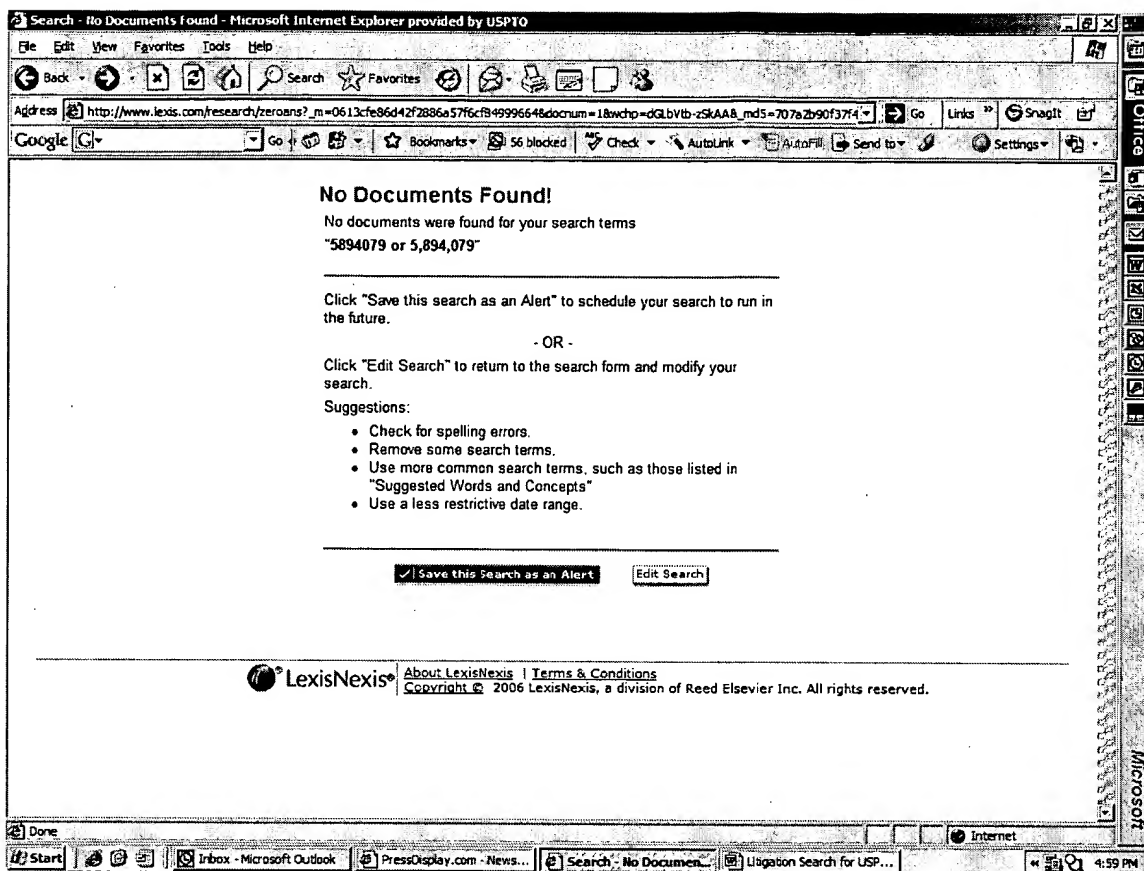
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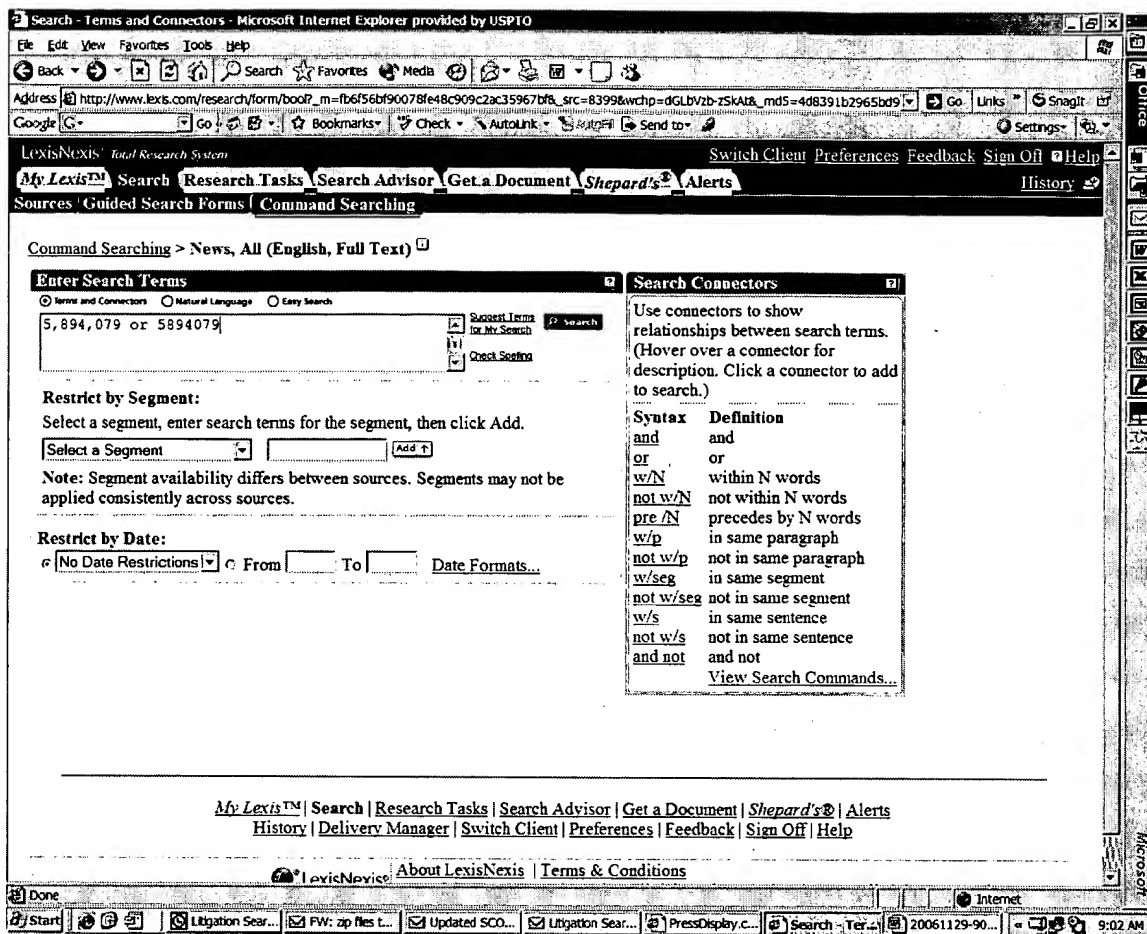
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Terms: 5,894,079 or 5894079 (Edit Search Suggest Terms for My Search)

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1. Crop Science, May 1, 2004, No. 3, Vol. 44; Pg. 968; ISSN: 0011-183X, 9827 words, The genetic anatomy of a patented yellow bean; Plant Genetic Resources, Pallottini, L.; Garcia, E.; Kami, J.; Barcaccia, G.; Gepts, P.
... awarded patent no. 5,894,079 for the yellow-seeded ...
... named enola, No. 5,894,079 [Online] http://patft ...
... d = ptvt&s1 = 5,894,079&OS = 5,894,079&RS = 5,894,079 (verified 7 January ...
2. B.C. Business Magazine, November, 2003, v.31(11) N°03 pg 54-55; ISSN: 0849-481X, 5894079, 4435 words, Shattered: If disaster struck, would you be able to pick up the pieces and move forward? Inspiration from those who did, and survival tips for you, O'Brien, Vicki
3. All Regions, November 22, 2002, 3415 words, Patenting Genetically Engineered Plants - Herbert Smith, Herbert Smith, United Kingdom
... US Patent No. 5,894,079 which can be located on the ...
4. The Record, September 15, 2002, Sunday, SK-BEANS, 1272 words, U.S. Dry Bean Production Business Gets Ugly, By Reed Fujii
... a patent, No. 5,894,079, for the Enola bean. He ...
5. Latin Trade, August, 2001, 1342 words, Little, Yellow Different?, Laura Carlsen Los Mochis, Mexico
... own patent, No. 5894079. Enola comes from his wife ...
6. Revista Latin Trade, August 1, 2001, No. 8, Vol. 9; Pg. 58; ISSN: 1087-0857, 1371 words, Pequeno y amarillo: un pequeno frijol, y su patente, generan una escaramuza fronteriza; Conexion, agricultura, Carlsen, Laura
... su patente, numero 5894079. "Enola" es el ...
7. The New York Times, March 20, 2001 Tuesday Correction Appended, Late Edition - Final Section F: Column 2: Science Desk: Pg. ...

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Nine articles were found; 8 were relevant, and their summaries are below.

Source: News, All (English, Full Text)

Search Terms: 5,894,079 or 5894079

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1 of 9 DOCUMENTS

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May 1, 2004

SECTION: No. 3, Vol. 44; Pg. 968; ISSN: 0011-183X

IAC-ACC-NO: 117117384

LENGTH: 9827 words

USP 5894079, Case: 90/005,892

Page 29 of 37

HEADLINE: The genetic anatomy of a patented yellow bean; Plant Genetic Resources

BYLINE: Pallottini, L.; Garcia, E.; Kami, J.; Barcaccia, G.; Gepts, P.

BODY:

In 1999, the U.S. PTO awarded patent no. **5,894,079** for the yellow-seeded cultivar Enola of common bean. The main claim of this patent is the yellow color of the seed coat of Enola. ...

...2. New York Times, New York.

Proctor, L. 1999. Field bean cultivar named enola, No. **5,894,079** [Online]
<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=/netahtml/search-bool.html&r=1&f=G&1=50&col=AND&d=ptxt&s1=5,894,079&OS=5,894,079&RS=5,894,079> (verified 7 January 2004).

Rivera-Ocasio, E., T.M. Aide, and W.O. McMillan. 2002. Patterns of genetic diversity and ...

3 of 9 DOCUMENTS

Copyright 2002 Mondaq Ltd.
All Regions

November 22, 2002

LENGTH: 3415 words

HEADLINE: Patenting Genetically Engineered Plants - Herbert Smith

SOURCE: Herbert Smith, United Kingdom

BODY:

...Initiative on Modified Agricultural Crops - a cross -industry grouping in the UK.

19 US Patent No. **5,894,079** which can be located on the US PTO's website at www.uspto.gov.

20 For more information, please ...

4 of 9 DOCUMENTS

Copyright 2002 Knight Ridder/Tribune Business News
Copyright 2002 The Record
The Record

September 15, 2002, Sunday

KR-ACC-NO: SK-BEANS

LENGTH: 1272 words

HEADLINE: U.S. Dry Bean Production Business Gets Ugly

BYLINE: By Reed Fujii

BODY:

...obtained a plant variety protection certificate from the U.S. Department of Agriculture, and also won in 1999 a patent, No. **5,894,079**, for the Enola bean.

He established Delta, Colo.-based Pod-Ners, of which he is president, to provide the exclusive rights to license and market ...

5 of 9 DOCUMENTS

Copyright 2001 Freedom Magazines International, Inc.
Latin Trade

August, 2001

LENGTH: 1342 words

HEADLINE: Little, Yellow Different?

BYLINE: Laura Carlsen Los Mochis, Mexico

BODY:

...balance in the United States.

Generations. What Proctor did to win his patent protection is spelled out in his own patent, No. **5894079**. Enola comes from his wife Pollys middle name. In 1994, the patent says, field beans that were yellow in color were ...

6 of 9 DOCUMENTS

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ASAP
Copyright 2001 Freedom Magazines, Inc.

August 1, 2001

SECTION: No. 8, Vol. 9; Pg. 58; ISSN: 1087-0857

IAC-ACC-NO: 94261704

LENGTH: 1371 words

HEADLINE: Pequeno y amarillo: un pequeno frijol, y su patente, generan una escaramuza
fronteriza; Conexion; agricultura

BYLINE: Carlsen, Laura

BODY:

...Generaciones. Lo que Proctor hizo para conseguir la proteccion esta explicado en su patente,
numero **5894079**. "Enola" es el segundo nombre de su esposa Polly. En 1994, dice la patente, se ...

7 of 9 DOCUMENTS

Copyright 2001 The New York Times Company
The New York Times

March 20, 2001 Tuesday
Correction Appended
Late Edition - Final

SECTION: Section F; Column 2; Science Desk; Pg. 5

LENGTH: 1131 words

HEADLINE: Patent on Small Yellow Bean Provokes Cry of Biopiracy

BYLINE: By TIMOTHY PRATT

DATELINE: CALI, Colombia

BODY:

...called Enola, or at least that's what Larry Proctor, proprietor of Pod-ners L.L.C. and holder of
United States Patent No. **5,894,079**, calls it, after his wife's middle name.

But Dr. Voss, bean importers, breeders and genetics specialists across ...

CORRECTION-DATE: March 29, 2001

CORRECTION:

An article in Science Times on March 20 about a patent case that has provoked accusations of bio piracy misstated the distinction held by a patent that heightened emotions about patenting living organisms and misstated the issue date. The patent, on a mouse with genes that created cancer tumors, was the first of a genetically engineered mammal, not of a living organism. The patent was issued in 1988, not 1980.

8 of 9 DOCUMENTS

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The Denver Post

March 21, 2000 Tuesday 2D EDITION

SECTION: BUSINESS; Pg. C-01

LENGTH: 1378 words

HEADLINE: Litigation sprouts up over claim to invent bean

BYLINE: By Jonathan Friedland, The Wall Street Journal,

BODY:

...in the United States a yellow bean that one calls the Mayacoba and the other calls United States Patent No. **5,894,079**.

And that is why they are enemies.

9 of 9 DOCUMENTS

Copyright 2000 Omega Communications, Inc.
Intellectual Property Today

February, 2000

SECTION: RFC EXPRESS TM; Recently Filed Patent Cases; Pg. 20

LENGTH: 1263 words

BODY:

...395/614

99-10172 -- Filed: 991005

POD-NERS LLC

vs.

TUTULI PRODUCE CORP. & REBECCA GILLILAND

5,894,079-800/200

99-8258 -- Filed: 991217

PRECOTE USA INC.

vs.

BRADLEY COATING INC.

99-1747 -- ...

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Title

Patent Assignee :

Inventor(s) :

Patent Number(s) : 5894079

Priority Number(s) :

Application Number(s) :

Intl. Classification code: Lookup

European Classification Code: Lookup

US Classification Code: Lookup

Publication Date From January Earliest

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Patent Number :

US5894079 A 19990413 [US5894079]

Title :

(A) Field bean cultivar named enola

Inventor(s) :

(A) PROCTOR LARRY M (US)

Application Nbr :

US74944996 19961115 [1996US-0749449]

1 / 1 LGST - ©EPO

Patent Number :

US5894079 A 19990413 [US5894079]

Application Number :

US74944996 19961115 [1996US-0749449]

Action Taken :

19990504 US/AS02-A
ASSIGNMENT OF ASSIGNOR'S INTEREST
OWNER: POD-NERS, L.L.C. 269 HWY. 348 DELTA, COLORADO 8141; EFFECTIVE
DATE: 19990409

19990504 US/AS02-A
ASSIGNMENT OF ASSIGNOR'S INTEREST
OWNER: PROCTOR, LARRY; EFFECTIVE DATE: 19990409

20010116 US/RR-A [+]
REQUEST FOR REEXAMINATION FILED
EFFECTIVE DATE: 20001220

20010522 US/CC-A
CERTIFICATE OF CORRECTION

Update Code :

2003-22

1 / 1 CRXX - ©CLAIMS/RRX

Patent Number :

5,894,079 A 19990413 [US5894079]

Patent Assignee :

Proctor, Larry M

Actions :

19990504 REASSIGNED
ASSIGNMENT OF ASSIGNORS INTEREST

Assignor: PROCTOR, LARRY DATE SIGNED: 04/09/1999

Assignee: POD-NERS, L.L.C. 269 HWY. 348 DELTA COLORADO 81416

Reel 009742/Frame 0430

Contact: ROCKEY, MILNAMOW & KATZ, LTD. LISA V. MUELLER 180 NORTH STETSON
AVENUE, SUITE 4700 TWO PRUDENTIAL PLAZA CHICAGO, IL 60601

20001220 REEXAMINATION REQUESTED
ISSUE DATE OF O.G.: 20010116
REEXAMINATION REQUEST NUMBER: 90/005892
The International Center for Tropical Agriculture (CIAT), John Dodds,
Dodds and Associates, Washington, DC

20010131 REISSUE REQUESTED
ISSUE DATE OF O.G.: 20030429
REISSUE REQUEST NUMBER: 09/773303
EXAMINATION GROUP RESPONSIBLE FOR REISSUEPROCESS: 1638

Reissue Patent Number:

1 / 2 LITA - ©Thomson Derwent

Accession Number :

P2006-01-23

File Segment :

PATENT (P)

Patent Number :
US5894079 19990413 (Utility)
Plaintiffs :
Pod-Ners LLC
Defendants :
McCarty, Dwain et al
Court :
CO
Docket Number :
05-cv-01866 rpm-oes
Filing Date :
2005-09-26
Action :
A complaint was filed

2 / 2 LITA - ©Thomson Derwent

Accession Number :
P2002-07-67
File Segment :
PATENT (P)
Patent Number :
US5894079 19990413 (Utility)
Plaintiffs :
Pod-ners LLC
Defendants :
Tutuli Produce Corporation;
Gilliland Rebecca
Court :
CA, Central Dist.
Docket Number :
99-10172 (CBM)
Filing Date :
1999-10-05
Action Date :
2001-08-20
Action :
Order by Judge Marshall granting plaintiff's motion to stay pending
resolution of US Supreme Court & US Patent proceedings.